

**MINUTES OF THE COMMON COUNCIL
WORK SESSION
September 20, 2011
City Council Chambers – Rouss City Hall**

PRESENT: President Jeff Buettner; Vice-Mayor Milt McInturff; Councilor John Willingham (3)

ABSENT: Councilor Evan Clark, John Hill, John Tagnesi and Les Veach; Vice-President Art Major; Mayor Elizabeth Minor (6)

President Buettner called the meeting to order at 6:01 p.m.

Items for Discussion:

Presentation: Millwood Avenue Traffic Diversion Proposal – Jim Deskins

President Buettner postponed the presentation to the September 27, 2011 Work Session.

Presentation: Eat for Education Program – Mary Blowe

President Buettner postponed the presentation to the September 27, 2011 Work Session.

R-2011-37: Resolution approving the refund of real estate taxes paid to Shenandoah Valley Community Residences – Ann Burkholder

Commissioner of the Revenue Ann Burkholder presented the resolution and stated Shenandoah Valley Community Residences is designated in state code as an exempt entity as opposed to an address. Therefore, they are requesting a refund of taxes paid for 2009 and 2010.

Councilor Willingham moved to forward R-2011-37 to Council. *The motion was seconded by Vice-Mayor McInturff then approved 3/0.*

O-2011-46: AN ORDINANCE AMEND AND RE-ADOPT SECTION 17-6 AND ADD SECTION 17-7.1 OF THE WINCHESTER CITY CODE RELATED TO NOISE CONTROL – Vince Diem

Zoning Administrator Vince Diem stated the changes to the ordinance are limited to the definition section 17-3. Section 17-6 has also been changed to include noise producing objects that are prohibited and limiting the amount of sound from the source.

Councilor Clark arrived at the meeting at 6:06 p.m.

Mr. Diem continued to state Section 17-7.1 has been added to include night time noise levels in the business districts and the hours allowed.

Councilor Willingham asked if the ordinance will supersede existing CUPs with decibel levels. City Attorney Anthony Williams stated the existing locations are bound by the CUPs. The provisions of the ordinance are broader than the CUPs.

Vice-Mayor McInturff moved to forward O-2011-46 to Council. *The motion was seconded by Councilor Willingham then approved 4/0.*

O-2011-47: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 2-37 OF THE WINCHESTER CITY CODE TO CLARIFY THE PARAMETERS FOR PUBLIC HEARINGS AND PUBLIC COMMENTS – Anthony Williams

Mr. Williams stated municipalities across the state differ on what is required on this issue. Although governing bodies are not required to have a public comment period, most do to allow citizens participation. However, limitations are applied on that. This Council has used a time limit but does not have a set policy on this. This ordinance will help to have uniformity on the application of the time limit and what can be addressed. He recommended adoption of the ordinance.

Councilor Clark moved to forward O-2011-47 to Council. *The motion was seconded then approved 4/0.*

O-2011-48: AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 16-8 OF THE WINCHESTER CITY CODE PERTAINING TO DISCHARGE OF AIR GUN, GRAVEL SHOOTER, OR SIMILAR INSTRUMENT – Kevin Sanzenbacher

Chief Kevin Sanzenbacher stated the amendment to this ordinance would bring us into compliance with the new state code adopted on July 1st.

Councilor Willingham moved to forward O-2011-48 to Council. *The motion was seconded by Vice-Mayor McInturff then approved 4/0.*

R-2011-38: Resolution – Amend and Re-Adopt Section 1.6 of the CEMS to Clarify Definitions of Classified, Part-Time, and Temporary Seasonal Employees – Joel Davis

Interim City Manager Craig Gerhart stated the amendment to the CEMS is to clarify classified and non-classified employees. Currently, the city has over 65 employees receiving no benefits. This will update the policy to the current market place to include classified employees with benefits, part-time employees with no time limit and no benefits, and seasonal/temporary employees to work up to 40 hours a week but no more than 6 months and no benefits.

Councilor Clark asked if there are any part-time employees who have worked a long time getting partial benefits. Mr. Gerhart stated there are 3 employees that get partial benefits but the others do not.

Councilor Willingham moved to forward R-2011-38 to Council. *The motion was seconded by Councilor Clark than approved 4/0.*

R-2011-39: Resolution – Authorize Staff to Complete Road Striping on Breckinridge Lane and Armistead Street – Perry Eisenach

Public Utilities Director Perry Eisenach stated staff has received multiple requests from this area to stripe the double yellow and white lanes down Breckinridge and Armistead. It does calm traffic down and provides a lane for parking. This would not do anything on Meadow Branch.

After a brief discussion, Councilor Willingham moved to forward R-2011-39 to Council. *The motion was seconded by Vice-Mayor McInturff then approved 4/0.*

R-2011-40: Resolution – Authorize the Manager to Negotiate With Middletown for a New Water Supply Agreement – Perry Eisenach

Mr. Eisenach stated Middletown has requested to receive more water from the City. They have only reached their maximum once but usually run right under that level. The request is to increase it to 500,000 gallons a day over the next 30 years.

Councilor Clark moved to forward R-2011-40 to Council. *The motion was seconded by Councilor Willingham then approved 4/0.*

R-2011-41: Resolution – Authorize the Application for VDOT Revenue Sharing Funds – FY 2013 – Perry Eisenach

Mr. Eisenach stated applications for VDOT's Revenue Sharing Funds are November 1st. Currently, there are 3 projects that have received revenue sharing funds. Although the City does not have to submit an application, Mr. Eisenach presented 4 possible projects that could be funded.

After a brief discussion, Councilor Willingham moved to forward R-2011-41 to Council to fund the sidewalk improvements on Valley Avenue between Middle Road and the southern City limit. *The motion was seconded by Vice-Mayor McInturff then approved 4/0.*

R-2011-42: Resolution – Authorize the Application for a Grant by the through the Virginia Department of Agriculture and Consumer Services to be Used in Partnership with the Local SPCA for Emergency Pet Sheltering Equipment – Lynn Miller

Emergency Management Coordinator Lynn Miller stated he is working with the Executive Director of the SPCA to obtain grant funding for emergency pet shelters

through the Virginia Department of Agriculture. The deadline for submittal is September 30th.

The resolution was moved forward on a 4/0 vote.

R-2011-43: Resolution – Suspend Disbursement of Contributions to SAAA Pending Completion of their Financial Audit – Anthony Williams

Mr. Williams stated this item came up while he was serving as the Acting City Manager and asked that Council does not construe this as a legal opinion. SAAA announced it is going under a major investigation that involved firing 3 employees. The new board chairman has also stated they have no confidence in their budget. The City has shown support for the elderly by budgeting funds each year to be paid quarterly. Mr. Williams asked Council to suspend the payments until they are comfortable with the accounting practices of SAAA.

President Buettner stated the mission of SAAA is very important to the community. He would not want to hurt that mission now that could negatively impact the important programs.

Councilor Willingham stated he agrees with President Buettner and has confidence in the current board. The city does need to keep an eye on the long term but he supports continuing funding.

Councilor Clark stated he thinks the city has conflicting goals when it comes to SAAA and the allocation of funds. Their management has given the city significant misrepresentations about their money in the past and he feels a duty to protect the money collected from the tax paying citizens. The mission of SAAA is very important to the city and the community but he would have to support the resolution at this point.

Vice-Mayor McInturff stated SAAA has been forthright that there is a problem and are trying to clean it up. Council has the opportunity to hold the money back later but he would continue with the disbursements at this time.

Councilor Clark stated SAAA has hired a local accounting firm to review the books and asked if they are going to communicate with the localities what they find. Mr. Williams stated he has been told they want to be as transparent as possible but they did not indicate to what extent.

Councilor Clark moved to forward R-2011-43 to Council. The motion died without a second.

Executive Session

MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF RECEIVING LEGAL ADVICE AND STATUS UPDATE FROM THE CITY ATTORNEY AND LEGAL CONSULTATION REGARDING THE SUBJECT OF SPECIFIC LEGAL MATTERS

REQUIRING THE PROVISION OF LEGAL ADVICE BY THE CITY ATTORNEY
AND MATTERS OF ACTUAL OR PROBABLE LITIGATION

President Buettner also asked for real estate to be included in the executive session motion.

Mr. Williams stated real estate would be pursuant to §2.2-3711(A)(6) for the purpose of discussing the disposition of real estate where the bargaining power of the city may be adversely affected if publically discussed.

Councilor Willingham moved to convene into executive session for the reasons stated above. *The motion was seconded by Vice-Mayor McInturff then unanimously approved 4/0.*

Mayor Minor arrived at 6:40 p.m. as Council was convening into executive session.

Councilor Willingham made a motion to reconvene in open session at 6:53 p.m. *The motion was seconded by Vice-Mayor McInturff then approved 5/0.*

Upon returning, each member certified that only public business matters lawfully exempted from open meeting requirements of the Virginia Freedom of Information Act were discussed during the closed meeting, and that only those public business matters identified in the motion which convened the closed meeting were heard, discussed, or considered during the closed meeting.

A roll call vote was taken, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
President Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Absent
Vice-President Major	Absent
Vice-Mayor McInturff	Aye
Mayor Minor	Aye
Councilor Tagnesi	Absent
Councilor Veach	Absent
Councilor Willingham	Aye

Mr. Williams asked that the minutes reflect a quorum was now present.

President Buettner asked to entertain a motion to authorize the City Attorney to settle the case of the City of Winchester v. Summerville, LP which is currently pending for trial in the Winchester Circuit Court.

Councilor Willingham moved to authorize the settlement. *The motion was seconded by Mayor Minor then approved 5/0.*

Report of Liaisons

Submitted Written Reports

Fire & Rescue Department

Police Department

Adjourn

Councilor Willingham moved to adjourn the meeting at 6:54 p.m. *The motion was seconded by Councilor Clark then approved 5/0.*